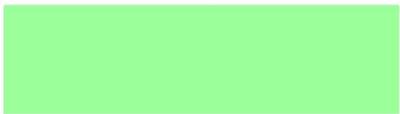




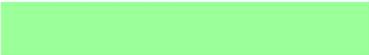
U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **FEB 19 2013** Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

APPLICATION: Application for Temporary Protected Status under Section 244 of the  
Immigration and Nationality Act, 8 U.S.C. § 1254a

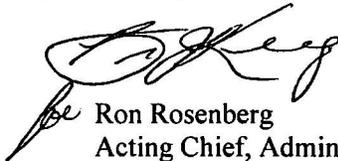
ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Ron Rosenberg  
Acting Chief, Administrative Appeals Office

(b)(6)

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish he was eligible for late registration. The director also denied the application because the applicant had failed to establish his qualifying continuous residence in the United States during the requisite period.

On appeal, the applicant asserts that he has been residing in Florida since 1997. As evidence the applicant submits a transcript of his driver's record from the state of Florida. The applicant requests that his application be reconsidered.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Secretary may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(b)(6)

- (iii) The applicant is a parolee or has a pending request for reparole; or
- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until September 9, 2013, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The first issue to be addressed is whether the applicant has established his continuous residence in the United States since February 13, 2001.

On June 10, 2011, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2011, and continuous physical presence since March 9, 2001, in the United States. The applicant, in response, provided copies of Form I-797C, Notice of Action, relating to his application for employment authorization under category C08 from September 5,

1997 through March 4, 2009, and a Form I-1797C relating to his application for employment authorization under category C10 along with:

- Income tax documents (Forms W-2 and 1098) for 2001 through 2009.
- A letter dated June 17, 2011, from a representative of [REDACTED] In [REDACTED] Florida, who attested to the applicant's employment as a lawn maintenance and enhancement supervisor from 2004 to 2006.
- A letter from the president and vice-president of [REDACTED] Florida, who indicated that the applicant was in their employ from December 7, 1998 through late 2000.
- A marriage certificate indicating the applicant was married on April 12, 2002 in Florida.
- His children's Florida birth certificates of February 22, 2002, February 1, 2003, June 17, 2010.
- Vehicle registration renewal notices from [REDACTED] Florida for 2001

On appeal, the applicant submits a transcript of his driver's record from the state of Florida, which indicates that he first received a license on December 16, 1997.

A review of the record of proceedings, which includes the applicant's asylum application and removal proceedings, establishes that the applicant has been continuously residing in the United States since February 13, 2001. Therefore, the director's finding on this ground will be withdrawn.

The second issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

The record reflects that the applicant was a derivative of his mother's asylum application; that on May 28, 2009, removal proceedings were held and the applicant's applications for asylum; withholding of removal and convention against torture were denied; that the applicant was ordered removed from the United States; that the applicant filed an appeal from the decision of the Immigration Judge; and that on June 14, 2010, the Board of Immigration Appeals dismissed the appeal. The applicant filed his initial TPS application on September 1, 2010.

On June 10, 2011, the applicant was also requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, however, failed to address this issue.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application.

While a pending asylum application technically rendered the applicant eligible for late registration, the regulation at 8 C.F.R. § 244.2(g) also requires a late registration application to be filed within a 60-day period immediately following the expiration or termination of conditions described in 8 C.F.R. § 244.2(f)(2). As noted above, the applicant filed an appeal from the decision of the immigration judge and on June 14, 2010, the BIA dismissed the appeal. The applicant's 60-day period for late registration expired on August 13, 2010. The applicant filed his TPS application on September 1, 2010, 19 days after the end of his 60-day period for late registration. On appeal, the applicant neither addresses the finding of his ineligibility as a late registrant nor provides any evidence to establish his eligibility as a late registrant. The applicant has failed to establish that he met the requirements for late registration described in 8 C.F.R. § 244.2(g). Consequently, the director's decision to deny the TPS application on this ground will be affirmed.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.